P8

19

Department of Revenue

OFFICE Yelee Road

STATION Madras

No. 1419

A2477/38

4-3-38

Today

Dated 19/5/38

DESPATCHED
19 MAY 1938
MSR

'ages in the file

(SUBJECT)

Lands (Bellary) Hospet Dt Re-settlement

Rev 52 138. Kodlabahalli Vge

Ullagaire - Encroachments regarding

Resettlement

Revenue DEPARTMENT.

A2477

In reply, please quote number, date and short title.*

Received _____ *Registered* _____

From (Name) J.W. Pritchard Esq., I.C.S.,

(Designation) Collector,

Post Box _____, (Station) Bellary.

Telegraphic Address _____

BOARD OF REV
6 - MAY 1938

To

The Secretary to the Board of Revenue,

Measures.

A1 *No.* 958/38, *dated* 4-5-1938 19 .

Sir,

Suit - O.S. 52/38 - District Munsif Court, Hospet (Bellary District) - encroachment on village site poramboke - plaintiff Banakara Ajjappa and Defendant - Collector of Bellary - submission of evidence.

ENCLOSURES
12 pages
Ch
SPARE COPIES

I enclose a copy of the plaint in O.S. No. 52/38, in the Court of the District Munsif, Hospet, the report of the Tahsildar, Kamalapuram, in his No.502/38 dated 24-4-38, and copy of the draft written statement prepared by the Government Pleader, Bellary.

2. The suit site is an encroachment on S.No. 529 village site poramboke - of Doddahalli village of Kudligi Taluk, by one Banakara Ajjappa, the plaintiff, who constructed a compound wall without permission in front of his house. It was considered objectionable, and penalty was levied for the first time on 7-4-1934. Order of eviction under section 6 of Act III of 1905 was served on him on 24-6-1935, and eviction was enforced on 21-7-1935 by demolishing the compound wall. The material was confiscated to Government, and sold in public auction on 20-8-35 and 13-12-35. The sales were confirmed by the Sub Collector Hospet on 11-1-36.

3. The suit was filed on 7-2-38, and the summons was served on the Collector on 5-3-38. It stands posted to 20-5-38 for filing the draft written statement. Under section 14 of Act III of 1905, the suit is to be barred, and the ...

3-5 cf
9-10 cf
17 cf
Present ar
12 cf
637 Vol II
Main Code
BK 15

Court cannot take cognizance of this suit. I request that the Board may be pleased to sanction the defence of this suit, and approve the draft written statement.

4. A copy of the notes of inspection dated 8-6-35 of suit site by the Sub Collector, Hospet, and the sketch prepared by him, together with a copy of this office M.Dis. 269/37, dated 4-10-1937, are enclosed.

M 11-13 e/

For Collector.

JRM/4-5.

In the Court of the District Munsif Hospet.

O.S. 32/38

Banakar Ajjappa ------- Plaintiff.

and

COLLECTOR'S
18 APR 19

The Madras Provincial Government
Represented by the District ------- Defendant.
Collector, Bellary.

Plaint under order Vii Rule 1 cpc on behalf of the plaintiff.

I. The plaintiff, Banakara Ajjappa son of Kariyappa, aged about 45 years, Lingayat, Cultivator, resides at Suladahalli village in Kudligi taluk.

Address for service C/O M.Rama Rao, Advocate,Hospet.

II. Defendant:- The Provincial Government of Madras represented by the District Collector, Bellary.

III. The plaintiff is the owner of the schedule mentioned open space. For more than 70 years the said site has been in possession and enjoyment of the plaintiff and his ancestors.

IV. A plan showing the plaintiff's two houses, the said open space etc is filed herewith. The said open space marked ABCDEFG in the plan was being enjoyed as a rick yard by the plaintiff and his predecessors in title for a very long time. Till very recently the said site was surrounded by a Milkhedge and contained a slab wall to leave the ~~cattle~~ cattle in. About 5 years back the milk hedge was replaced by a stone wall at a cost of nearly Rs 200.

V. Ill feelings exist between the plaintiff and the Reddi of the said village. Under the instigation of the said Reddi one Rajayya trespassed into the a portion of the schedule mentioned site; whereupon a complaint was preferred by the plaintiff before the Sty.Sub Magistrate of Kudligi. Eventally the case was compromised and the plaintiff's tile to the said site was confirmed by the said Rajayya.

VI. The desire to oust the plaintiff from the said site still persisted. The Reddi and others adopted a devise by inducing the then Revenue Inspector to charge the plaintiff with encroachment. Thereupon the encroachment proceedings were started and finally

eviction was ordered by the Sub Collector Hospet on 22-3-35. The plaintiff filed an appeal petition but with no avail. He produced two old sale deeds to prove his title to the schedule site- The said deeds are herewith filed.

VII. After the order of eviction the stone walls have been removed by the Revenue Inspector and the stones and slabs were removed and auctioned and carted away in the months of July and October 193 The plaintiff has suffered a loss of Rs 150 on that account and is entitled to be reimbursed by the Defendant.

VIII. In the eviction proceedings the Sub Collector ordered for the eviction of the portion marked AGFEKMB in the plan. The defendant has no manner of interest or title to the said portion and the proceedings of the Sub Collector are illegal and ultra vires. Hence the suit.

IX. The plaintiff issued a notice to the defendant under section 80 of C.P.C. alleging the above facts and an endorsement received by him is herewith filed.

X. The cause of action for this suit arose on 22-3-35., when the Sub Collector Hospet ordered eviction and subsequently in the months of July and October 1936 when the stones and slabs were removed and auctioned by the Revenue Inspector at Suladahalli village in Kudligi taluk within the juriddiction of this Ho'ble court.

XI. The value for the purpose of court fee and jurisdiction under section VII CL v of the court fees act is as follows:-

Market value of the land	Rs 50-0-0
Damaged claimed	Rs 150-0-0
	200-0-0

XII. The plaintiff in the end prays the Hon'ble court be pleased to pass a decree in favour of the plaintiff

1. declaring the plaintiffs title to the schedule mentioned site marked AGFEKMB in the plan

2. Directing the defendant to put the plaintiff in possession of the said site

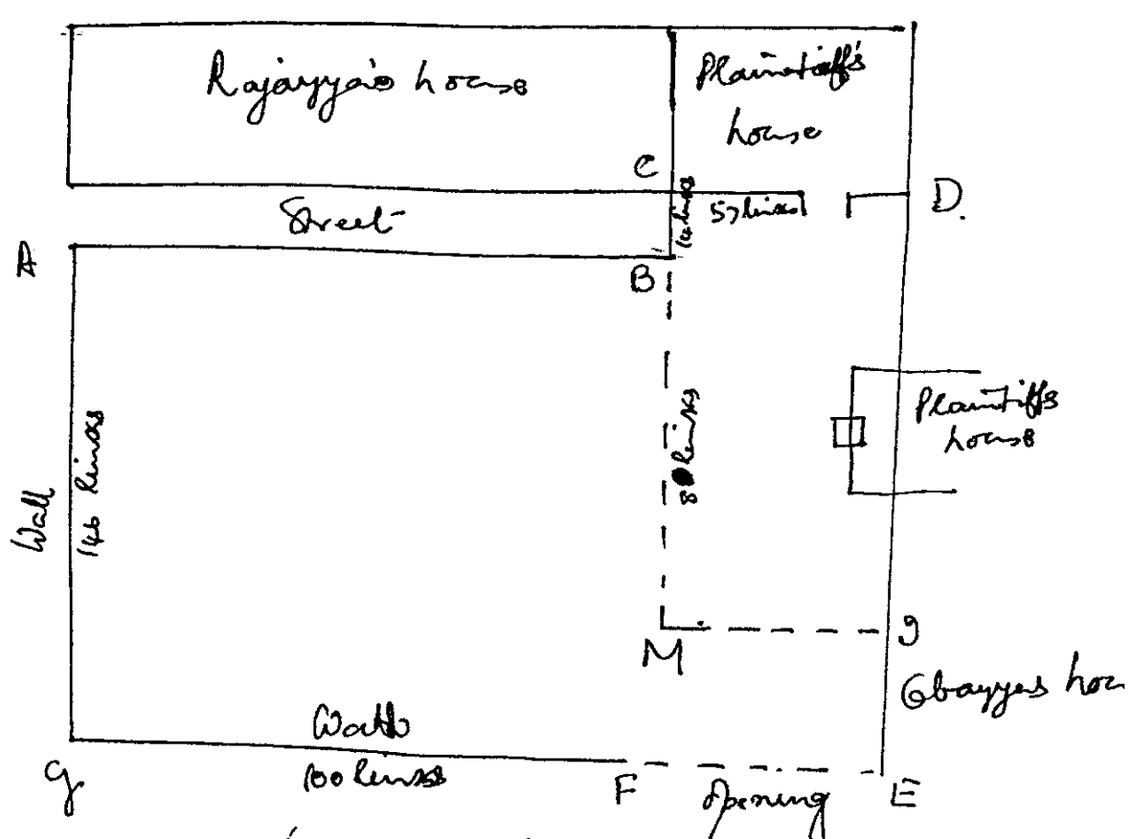
3. Awarding Rs 150 as damages for the loss occasioned by the demolition of the walls and the consequent auction of the stone materials.

4. For costs and such other reliefs as the HonBle court may deem fit.

Schedule.

(True copy)
Signed and verified
(Sd) M. Ramarao
Plaintiff Pleadr.

North Plan



(True copy)
Signed and verified.
(Sd) M. Ramarao
7-2-38.

In the Court of the District Munsiff, Hospet.

O.S. 62/56.

Between

Bhaskar Ajjappa -- Plaintiff.

and

The Madras Provincial Government represented by the District Collector, Bellary. -- Defendant.

Written Statement of Defendant.

1. This defendant denies all the allegations in the plaint except those which are specifically admitted and puts the plaintiff to strict proof of the same.

2. Para 2 of plaint.- This defendant denies that plaintiff is the owner of the suit site or that he and his ancestors have been in possession and enjoyment of the same for more than 70 years as alleged. The plaintiff is put to strict proof of the allegations in para 2 of plaint.

3. Para 3 of plaint are irrelevant to the suit. Plaintiff is put to strict proof of allegations in para 3.

4. The plaintiff has encroached upon village site, Poramboke bearing S.No. 529 and the defendant cannot directly interfere with the plaintiff.

5. The plaintiff in the circumstances is not entitled to either the relief for possession or for damages.

6. In any event the amount claimed as damages is excessive.

7. The suit is barred by limitation under section 11 of Madras Act III of 1905.

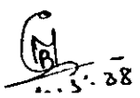
8. The plaintiff's suit may therefore be dismissed with costs.

Signature.

Verification- I, D. Venkatesh, the Collector of Bellary hereby declare that what is stated in the above paragraphs is

information which I believe to be true.

Signature.



Copy of R.C.No. 502-38 B-1 dated 24-3-38 from the Tahsildar of Kudligi.

Encroachment- Suladahalli village- Eviction of compound wall - suit filed by B.Ajjappa- report submitted with ~~communicated~~ connected records.

The encroachment was booked in Fasli 1343 for the first time in the name of the plaintiff Banakara Ajjappa of Suladahalli. The notice under section 7 of the Land Encroachment Act was served on him on 31-3-1934 and a penalty of Rs5 was levied(Please see B.M.Dis.1591/~~33~~43). As he repeated the encroachment during Fasli 1344 the penalty was enhanced to Rs 6 and eviction was applied for. The Sub Collector Hospet inspected the site and after detailed inspection of the site and examination of the documents produced by him the plaintiff it was decided and declared to be Government site. Under his orders eviction was resorted to and the walls were demolished. Vide his letter dated 21st May 1935 at page 19 of Taluk B.M.Dis.3662/44.

The question whether the site, from which the plaintiff was evicted, belonged to the Government or to the plaintiff was fully discussed by the Sub Collector in his notes of inspection dated 8-5-1935(pages 37-38) and the validity of the documents produced was examined with the result that the site was a Government one and the documents were worthless.

The site in question was inspected by the Revenue Inspectors, Tahsildars and the Sub Collector and the documents produced by the plaintiff were also considered before arriving at a decission. Final orders were passed by the Sub Collector.

On the notice given by the plaintiff under section 80 C.P.C. he was endorsed that his threatened suit was awaited. Please see Collector's R.Dis.4269/37 dated 4-10-37

The B.M.Dis.File 3662/44 contains a clear sketch drawn by the Sub Collector Hospet dated 15-3-1935. Please see page 39 of the file.

The S.No. of the field is 529 village site.

Diglot registers are not available in this office. They have been destroyed. According to the fair adngal and the Diglot printed in 1927, the land has been classed as S.No. 529 village site porambok measuring 13-45 acres.

Taluk B.M.Dis.1591/43m 3662/44 and an extract from the adangal for 5 years with the azmoishing officers' remarks are herewith submitted.

(True Copy.)

A.S.N./4-4p.

~~Eng. Head Clerk.~~

8.4.38
F.C.S

Copy of Notes of inspection dated 8-3-35 of the suit schedule

The title deed of 1882 merely gives out that on the south of the house sold there was a rickyard of Mariappa. It does not however give the extent of the rickyard or state that the rickyard was owned by Mariappa.

(Vide separate sheet for the sketch.) (X)

The petition enclosed an enormous space and left already four houses in the village as admitted by him and two of these are shown in the sketch above. The title deed produced by him does not show that the site enclosed by walls is his. Admittedly the site was unoccupied for 10 or 12 years. If people can occupied village site for putting up rick for a few years it does not become theirs automatically. Obviously the occupation of rickyards was not continuous even according to the petitioner the site was vacant for 10 or 12 years. The agreement produced are worthless as they do not show what Ajjappa owns the site occupied by him. There are houses to the north of the wall, A.B and to the North west. These householders appear to have been using the site enclosed as a path to the one and only well in the village. However there is another path parallel to AX and west of AX to a distance of about 50 or 60 links from it. The well is much to the South of the site enclosed. The only objection then to the occupation by Ajjappa is that he has occupied more than what he requires and has curtailed the area of village site available sadly.

The area available in village site that can be considered as house site. is only about 12 cents and this area is to the west of the village (This area is separate from the site encroached upon by Ajjappa. Ajjappa has occupied 1 cents. This out of a total available space of about 20 cents in the village. Ajjappa has occupied 1/20 of the whole.

The total population of the village including hamlets is about 1400. For this population 20 cents is totally

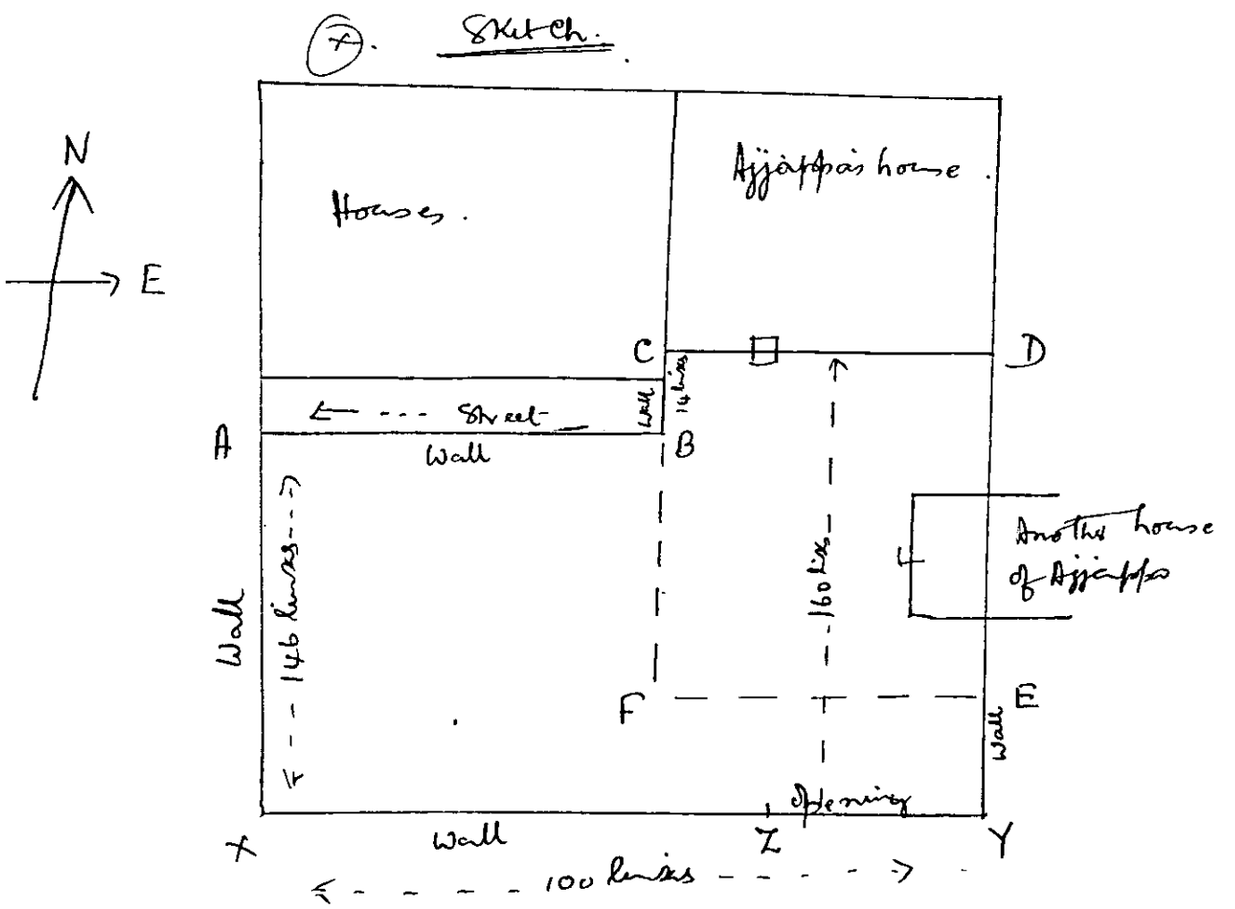
...o s...ll for f...ur... requir...ents. In t...is case Adjappa ha... o...r houses already excludin... th... perso...s entioned by the ...ahsildar as desirin... sites ...here are now be...re ...e four ...ersons want...n... sites.

...e encroac...er pays an assess...ent of Rs.40/- ...nd is ...robably the t...ird or fourth ...i... ryot in the village.

...ere is no objection however to ...ra...tin... hi... 4 or 5 cents of ...and or a cattle s...ed and a yard. I would sug...est the assign-ent of plot CDEF. ...here CD is 57½ links and CF.80 links. ...e plot will be r...ctangular. In the remaining space the ~~house~~ the house site... can be assi...ned to two needy persons ...th ...ne house facin... t...e stre...t North or AB. and the other ...s. facin... south towards XY.

...e Tahsildar should apply formally for the eviction ...r t...e occupation ...f t...e ...ite enclosed by the walls ZXAB etc. ...n the ...eanti...e t...e Tahsildar should take steps to ...ssign the ...to 5 cents plot re...ommended by ...e for assignment to Adjappa.

/True Copy/



Copy of this office R.Dis.C. 4269/37, date 4-10-37.

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Encroachment - Land - Kundligi taluk - Sarjapur village - trick guard by Bangalore Ajjappa - case of eviction - Suit notice under section 80 C.P.C..

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Ref.- Notice dated 1-8-1937 from Mr. B. Anantacharlu, Pleader, Hospet.

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Endorsement.

The threatened suit is awaited.

Sd. B. Batta,
For Collector.

To A.R.Ry. B. Anantachar..., Hospet, etc..

/True Copy/

M/ 774. C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ...	19.5	
When copied ..	19/5	
When examined..	19/5	
When signed ..		
When despatched.		

DESPATCHED
19 MAY 1938

SUBJECT :— Suits-(Bellary) - Haspet or Munsiff - Ord 32/38 - Koolada-halli village - Villagesite - Encroachment - defence sanctioned

READ AGAIN ——— , dated ——— 19——.

" " ——— " ——— 19——.

READ *ALSO* :—

No. ——— From the ——— No. ——— , dated ——— 19——.

A. 2477/38 Coll of Bellary " 958/38 " 3/5/38 M 1-2 of Q

" ——— " ——— " ——— " ——— 19——.

~~Order~~ Ms. Resolution ~~Rout.~~ No. 1419, dated 19.5 19 38.

The Board sanctions the defence of the suit and approves the draft written statement subject to the substitution of the words "Province of Madras" for ~~the~~ "Madras Provincial Govt" in the heading of the written statement.

The Coll is requested to attach a correct plan of the suit site to the written statement

19/5 19 V 38 19/5

HG 30-5-38

Note file

Suits – (Bellary) –

Hospet Dt Munsiff – Ors

32/38 – Sooladahalli

Village – Encroachment

defence – Sanction.

A 2477/38 from the Coll

of Bellary Pp 1-2 cf

To Secy

Please see the

Coll's letter at Pp 1-2 cf

2/ The suit site

forms part of the

unoccupied village site

in the village of Soola-

halli of Kudligi Taluk

Bellary Dt. The plaintiff

high handedly occupied

it and enclosed it by

means of compound

walls. Eviction was

rightly ordered.

The defence

of the suit may be

sanctioned and the

draft written statement

may be approved

Subject to the substitution of "the Province of Madras" for "the Madras Provincial Govt" in the heading of the written statement.

The Collr may also be asked to attach a correct plan of the site to the written statement

Draft. JB 18/5

QQ
17/5
KG
18.5.38

Secy

To Secy

Draft submitted. (The file may be submitted to Mr afternoon)

17/5
KG
18.5.38

JB 18/5

Mr (after issue)

26.5.38

SECY.
23 MAY 1938

CERTIFICATE CHECK SLIP.

D.F. No. Mis 1419

Dated 19/5/38

Single Member

~~Two Members~~

~~Full Board.~~

I.A.	A.D.C.	L.C. L.R.	A.S. Sett.,	A.S. Sep. Rev.,	J.C.	Secy.	W.S.
(1)					✓		
(2)					✓		
(3)							
(4)	Initials.						

24/5/38

Passed for record.

Secretary
Court Secretary

A.S. (L...)

A.S. (Sett.,)

Y.S. ... (Rev.,)

A.D.C. & L.R.,

Y... 6/6/38

WE 30/5 1/6/38

Note - Entries not required thereon record fee.